

Example 2. The facts are the same as in *Example 1*, except that the letter was sent by the IRS in February 2006, and the closing agreement was tendered to the taxpayer in April 2006. For purposes of the application of section 6404(g)(2)(E), the taxpayer has acted reasonably and in good faith. Interest accruing on or before October 3, 2004, relating to the transaction in which the taxpayer participated will be suspended.

Example 3. The taxpayer participated in a listed transaction. In response to an offer of settlement extended by the IRS in August 2005, the taxpayer informed the IRS of her interest in entering into a closing agreement on the terms proposed by the IRS. The revenue agent assigned to the transaction calculated the taxpayer's liability under the settlement and tendered a closing agreement to the taxpayer in November 2005. The taxpayer executed the closing agreement but failed to make any arrangement for payment of the agreed-upon liability stated in the closing agreement. Taking into account all the facts and circumstances surrounding the transaction, the taxpayer did not act reasonably and in good faith. Interest accruing on or before October 3, 2004, relating to the transaction in which the taxpayer participated will not be suspended.

Example 4. The taxpayer participated in a listed transaction. In a letter sent by the IRS directly to the taxpayer in July 2005, the IRS extended an offer of settlement. The July 2005 letter informed the taxpayer that, absent atypical facts and circumstances, the taxpayer should not expect resolution of the tax issues on more favorable terms than proposed in the letter. The taxpayer declined the proposed settlement terms of the letter and proceeded to Appeals to present what the taxpayer claimed were atypical facts and circumstances. The administrative file did not contain sufficient information bearing on atypical facts and circumstances, and the taxpayer failed to provide additional information when requested by Appeals to explain how the transaction originally proposed to the taxpayer differed in structure or types of tax benefits claimed, from the transaction as implemented by the taxpayer. Appeals determined that the taxpayer's facts and circumstances were not significantly different from those of other taxpayers who participated in that listed transaction and thus, were not atypical. In September 2006, the taxpayer and Appeals entered into a closing agreement on terms consistent with those originally proposed in the July 2005 letter. The taxpayer has complied with the terms of that closing agreement. For purposes of the application of section 6404(g)(2)(E), this taxpayer is not presumed to have acted reasonably and in good faith; instead, the IRS will apply the general rule to determine whether to suspend interest accruing on or before Oc-

tober 3, 2004, relating to the transaction in which the taxpayer participated.

Example 5. The facts are the same as in *Example 4*, except that Appeals agrees that atypical facts were present that warrant additional concessions by the government. A settlement is reached on terms more favorable to the taxpayer than those proposed in the July 2005 letter. For purposes of the application of section 6404(g)(2)(E), this taxpayer is presumed to have acted reasonably and in good faith, and absent evidence of rare or unusual circumstances harmful to tax administration, is eligible for suspension of interest accruing on or before October 3, 2004, relating to the transaction in which the taxpayer participated.

(C) *Closed transactions.* A transaction is considered closed for purposes of this clause if, as of December 14, 2005, the assessment of all federal income taxes for the taxable year in which the tax liability to which the interest relates is prevented by the operation of any law or rule of law, or a closing agreement under section 7121 has been entered into with respect to the tax liability arising in connection with the transaction.

(c) [Reserved]

[T.D. 9333, 72 FR 34177, June 21, 2007]

§ 301.6405-1 Reports of refunds and credits.

Section 6405 requires that a report be made to the Joint Committee on Taxation of proposed refunds or credits in excess of \$100,000 of any income tax (including any qualified State individual income tax collected by the Federal Government), war profits tax, excess profits tax, estate tax, or gift tax. An exception is provided under which refunds and credits made after July 1, 1972, and attributable to an election under section 165(h) to deduct a disaster loss for the taxable year in which the disaster occurred, may be made prior to the submission of such report to the Joint Committee on Taxation.

[T.D. 7577, 43 FR 59376, Dec. 20, 1978]

§ 301.6407-1 Date of allowance of refund or credit.

The date on which the district director or the director of the regional service center, or an authorized certifying officer designated by either of them, first certifies the allowance of an over-assessment in respect of any internal

revenue tax shall be considered as the date of allowance of refund or credit in respect of such tax.

RULES OF SPECIAL APPLICATION

§ 301.6411-1 Tentative carryback adjustments.

For regulations under section 6411, see §§ 1.6411-1 to 1.6411-4, inclusive, of this chapter (Income Tax Regulations).

§ 301.6413-1 Special rules applicable to certain employment taxes.

For regulations under section 6413, see §§ 31.6413(a)-1 to 31.6413(c)-1, inclusive, of this chapter (Employment Tax Regulations).

§ 301.6414-1 Income tax withheld.

(a) For rules relating to the refund or credit of income tax withheld under chapter 3 of the Code on nonresident aliens and foreign corporations and tax-free covenant bonds, see § 1.6414-1 of this chapter (Income Tax Regulations).

(b) For rules relating to the refund or credit of income tax withheld under chapter 24 of the Code from wages, see § 31.6414-1 of this chapter (Employment Tax Regulations).

§ 301.6425-1 Adjustment of overpayment of estimated income tax by corporation.

For regulations under section 6425, see §§ 1.6425-1 to 1.6425-3, inclusive, of this chapter (Income Tax Regulations).

[T.D. 7059, 35 FR 14548, Sept. 17, 1970]

Limitations

LIMITATIONS ON ASSESSMENT AND COLLECTION

§ 301.6501(a)-1 Period of limitations upon assessment and collection.

(a) The amount of any tax imposed by the Code (other than a tax collected by means of stamps) shall be assessed within 3 years after the return was filed. For rules applicable in cases where the return is filed prior to the due date thereof, see section 6501(b). In the case of taxes payable by stamp, assessment shall be made at any time after the tax became due and before the expiration of 3 years after the date on

which any part of the tax was paid. For exceptions and additional rules, see subsections (b) to (g) of section 6501, and for cross references to other provisions relating to limitations on assessment and collection, see sections 6501(h) and 6504.

(b) No proceeding in court without assessment for the collection of any tax shall be begun after the expiration of the applicable period for the assessment of such tax.

§ 301.6501(b)-1 Time return deemed filed for purposes of determining limitations.

(a) *Early return.* Any return, other than a return of tax referred to in paragraph (b) of this section, filed before the last day prescribed by law or regulations for the filing thereof (determined without regard to any extension of time for filing) shall be considered as filed on such last day.

(b) *Returns of social security tax and of income tax withholding.* If a return on or after November 13, 1966, of tax imposed by chapter 3 of the Code (relating to withholding of tax on nonresident aliens and foreign corporations and tax-free covenant bonds), or if a return of tax imposed by chapter 21 of the Code (relating to the Federal Insurance Contributions Act) or by chapter 24 of the Code (relating to collection of income tax at source on wages), for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, such return shall be deemed filed on April 15 of such succeeding calendar year. For example, if quarterly returns of the tax imposed by chapter 24 of the Code are filed for the four quarters of 1955 on April 30, July 31, and October 31, 1955, and on January 31, 1956, the period of limitation for assessment with respect to the tax required to be reported on such return is measured from April 15, 1956. However, if any of such returns is filed after April 15, 1956, the period of limitation for assessment of the tax required to be reported on that return is measured from the date it is in fact filed.

(c) *Returns executed by district directors or other internal revenue officers.* The execution of a return by a district director or other authorized internal